



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION ON REHEARING

FCP/150396

PRELIMINARY RECITALS

Pursuant to a petition filed July 01, 2013, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milw Cty Dept Family Care - MCO in regard to Medical Assistance, a rehearing was held on November 21, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the MCO correctly determined petitioner's supportive home care (SHC)/personal care (PC) hours.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Lori Stahl

Milw Cty Dept Family Care - MCO
901 N 9th St
Milwaukee, WI 53233

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County and a member of the Family Care Program (FCP).
2. On May 30, 2013 the Family Care Interdisciplinary Team (IDT) completed a 6-month review of petitioner's case, including a SHC/PC assessment.

3. On June 21, 2013 a Notice of Action letter was issued to petitioner regarding the determination that his SHC and PC hours would be 13.75 hours weekly (7.75 PC hours + 6 SHC hours).
4. Petitioner appealed that determination on July 1, 2013 and the matter was scheduled for a hearing. Several reschedules of that hearing occurred.
5. On October 2, 2013 petitioner received a functional occupational therapy (OT) assessment. This caused the IDT to increase petitioner's PC hours to 11.25 weekly. The SHC hours remained the same.
6. On October 7, 2013 the petitioner's authorized representative submitted a withdrawal for the hearing on petitioner's behalf citing the resolution that occurred after the OT assessment. The matter was dismissed accordingly.
7. On October 21, 2013 the petitioner filed a rehearing request stating that he did not intend to withdraw the matter. The matter was scheduled for a rehearing, which occurred on November 21, 2013.
8. On November 21, 2013 petitioner indicated on the record in the rehearing that he did not want to dispute his PC/SHC hours.

DISCUSSION

The Family Care Program (FCP), which is supervised by the Department of Health Services, is designed to provide appropriate long-term care services for elderly or disabled adults. The Care Management Organization (CMO) is required to issue notice to clients regarding eligibility, entitlement and cost sharing requirements as required under Wis. Adm. Code §DHS 10.31(6)(b) and Wis. Adm. Code §DHS 10.52. Further, according to the rule, clients shall be given written notice of any intended adverse action at least 10 days prior to the date of the intended action by the CMO in every instance in which the CMO intends to reduce or terminate a service or deny payment for a service. As described in Finding #3 above, the notice was issued and petitioner appealed therefrom.

The state code language on the scope of permissible services for the FCP reads as follows:

DHS 10.41 Family care services. ...

(2) SERVICES. Services provided under the family care benefit shall be determined through individual assessment of enrollee needs and values and detailed in an individual service plan unique to each enrollee. As appropriate to its target population and as specified in the department's contract, each CMO shall have available at least the services and support items covered under the home and community-based waivers under 42 USC 1396n(c) and ss.46.275, 46.277 and 46.278, Stat., the long-term support services and support items under the state's plan for medical assistance. In addition, a CMO may provide other services that substitute for or augment the specified services if these services are cost-effective and meet the needs of enrollees as identified through the individual assessment and service plan.

Wis. Admin. Code §DHS 10.41(2). SHC and PC services are included in the list of covered services in the statutory note above.

The agency has developed an assessment tool to allow case managers to consistently determine the number of hours required by each recipient. The assessment tool allots a specific amount of time in each area the recipient requires help, which the reviewer can then adjust to account for variables missing from the screening tool's calculations. The reviewer in this case, after meeting with petitioner and assessing his capabilities, used the tool to determine that his SHC and PC hours would be 13.75 hours weekly (7.75

PC hours + 6 SHC hours). A few months later, petitioner received a functional occupational therapy (OT) assessment. This caused the IDT to increase petitioner's PC hours to 11.25 weekly. The SHC hours remained the same. On November 21, 2013 petitioner indicated on the record in the rehearing that he did not want to dispute his PC/SHC hours. There is therefore no evidence to show that the agency's determination was incorrect and it has not been rebutted. Accordingly, I conclude that the result of the SHC/PC determination is justified and I do not find reason to increase the hours beyond the hours now approved.

CONCLUSIONS OF LAW

The MCO correctly determined petitioner's 6 hours of SHC and 11.25 hours of PC weekly.

THEREFORE, it is

ORDERED

The petition for review herein is dismissed.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 9th day of December, 2013

\sKelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 9, 2013.

Milw Cty Dept Family Care - MCO
Office of Family Care Expansion